

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

**IN RE: NATIONAL PRESCRIPTION
OPIATE LITIGATION**

Case No. 1:17-md-2804

Judge Dan Aaron Polster

STATUS REPORT OF THE MYLAN DEFENDANTS

In accordance with this Court’s June 23, 2022 Order setting a follow-up status conference on September 23 for certain defendants not previously involved in MDL bellwether tracks, the Mylan Defendants (“Mylan”)¹ submit this status report. Mylan appreciates the opportunity to update the Court about its status and to provide input about next steps.

Since the June 22 status conference, Mylan has engaged in productive discussions with the Plaintiffs’ Executive Committee (“PEC”) regarding Mylan’s status in the MDL and a mutual exchange of information. For its part, Mylan raised several threshold issues that Mylan previously set forth in its status report dated June 16, 2022 (Dkt. No. 4537)—including most particularly its concern that Mylan has been named in complaints filed by jurisdictions where Mylan did not actually meet the 5% market share threshold the Court established for adding defendants because of erroneous calculations of supposed “morphine milligram equivalents” (“MMEs”). *See* Nov. 8, 2018 Order Regarding Plaintiff’s Motion for Modification of CMO-1, Dkt. No. 1106. Based on Mylan’s review of the ARCOS data, Mylan does not have 5% total market share by volume (across all opioid products) in any of the county lawsuits in which it is named. Mylan appreciates the

¹ References to Mylan include references to all entities in Mylan’s “Defendant Family” that are named in MDL cases. Dkt. No. 4380. Each Mylan Defendant expressly preserves and does not waive all of its individual rights, reservations, objections, and arguments, including with respect to service.

PEC's expressed receptivity to investigating this issue and looks forward to the PEC's feedback so that the parties may meaningfully evaluate the cases brought against Mylan and the appropriate path forward. For its part, the PEC has requested certain categories of information from Mylan, and the parties are working together to address, scope, timing, and protections for disclosures.

Given the productive nature of the initial conversations, Mylan submits that all parties would benefit from additional time to engage in further good-faith discussions. Mylan respectfully requests that the Court set the matter for a further progress report in 90 days, and defer until that time consideration of further action in the MDL on these cases.

Dated: September 21, 2022

Respectfully submitted,

/s/ Rebecca C. Mandel

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing was electronically filed and served upon counsel of record by operation of the Court's CM/ECF System on September 21, 2022.

/s/ Rebecca C. Mandel